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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,097	10/15/2001	Kazuhiko Nakashita	35.C15883	9347
5514	7590	06/14/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			MOE, AUNG SOE	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2612	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/976,097	<b>Applicant(s)</b> NAKASHITA, KAZUHIKO	
	<b>Examiner</b> Aung S. Moe	<b>Art Unit</b> 2612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,5 and 9 is/are allowed.
- 6) ☐ Claim(s) 6,8 and 10 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 6, 8 and 10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, it is unclear how "an image" recited in line 6 related to "an image" recited in line 4? If there is the same image, please change "an image" recited in line 6 to - - said image --.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 6, 8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kitagawa et al. (U.S. 6,738,093).

Regarding claim 6, Kitagawa '093 discloses an image pickup apparatus comprising: an image pickup element (see Fig. 1, the element 1); a memory for storing an image obtained by the image pickup element (i.e., noted the memory 11); an image compression circuit (i.e., noted the element 4; col. 2, lines 60-68) adapted to compress an image read out of the first area of said memory (11; noted that memory 11 contains a first area for storing a first frame of image data as shown in Figs. 4-6); and

a memory control circuit (i.e., noted the element 5 of Fig. 1) adapted to, in a mode of continuously pickup still image (i.e., see Figs. 4, 5 and 6; col. 3, lines 5+ and col. 5, lines 25-30), carry out in parallel a writing operation (i.e., noted WRITE operation as shown in Figs. 4, 5 and 6) of writing an image obtained by said image pickup element (1), into the first area of said memory (11) (11; noted that memory 11 contains a first area for storing a first frame of image data as shown in Figs. 4-6) and a readout operation (i.e., noted the "READ" operation parallel to "WRITE" operation as shown in Figs. 4-6) of reading an image already stored in the first area of the said memory (11) to be compressed by the image compressing circuit (i.e., as shown in Fig. 4, the first frame stored in the first area of the memory 11 is read and compressed by the processing section 4; see Figs. 4-6).

Regarding claim 8, Kitagawa '093 discloses wherein said memory control circuit (5) further carries out a read operation of reading an image stored in a second area of said memory (i.e., noted reading of the second frame at the time t15-t16 which stored in the memory 11 during the time T12-T13) in parallel with the writing operation and the readout operation (i.e., noted the

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“WRITE” and “READ”), to record the image in a recording medium (i.e., noted the recording medium 7).

Regarding claim 10, Kitagawa '093 discloses a control method of an image pickup apparatus having an image pickup element (1), a memory (11), and an image compression circuit (4), and said method comprising:

a writing step of writing an image (i.e., noted WRITE operation as shown in Figs. 4, 5 and 6), obtained by said image pickup element (1), into a first area of the memory (11),

a reading step of reading an image already stored in the first area of the memory (11; noted that memory 11 contains a first area for storing a first frame of image data as shown in Figs. 4-6), wherein said reading step is performed in parallel with said writing step (i.e., noted the “READ” operation parallel to “WRITE” operation as shown in Figs. 4-6); and

an image compression step (i.e., noted Processing section 4 as shown in Figs. 4-6) of compressing the image read out of the first area of the memory by said reading step (i.e., noted that memory 11 contains a first area for storing a first frame of image data as shown in Figs. 4-6).

#### *Allowable Subject Matter*

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-2, 4-5 and 9 are allowed over the prior art of record.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung S. Moe whose telephone number is 571-272-7314. The examiner can normally be reached on Mon-Fri (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'A. Moe' with a stylized flourish.

Aung S. Moe  
Primary Examiner  
Art Unit 2612

A. Moe  
June 10, 2005